

AMENDED IN SENATE AUGUST 7, 1996  
AMENDED IN SENATE JUNE 20, 1996  
AMENDED IN ASSEMBLY APRIL 18, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2726**

**Introduced by Assembly Member Woods**

February 22, 1996

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An act to amend Section 7576 of, and to add Section ~~7572.56~~ 7586.6 to, the Government Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2726, as amended, Woods. ~~Disabled persons~~ *Pupils: mental health services.*

Existing law makes the State Department of Mental Health or any community mental health service designated by the department for the provision of ~~psychotherapy or other~~ mental health services when required in a child's individualized education program.

This bill would establish procedures governing referrals of ~~children with disabilities~~ *pupils* to ~~county~~ *community* mental health ~~departments~~ *services* and the responsibilities of those ~~departments~~ *entities*.

This bill would specify that, commencing July 1, 1997, the fiscal *and* program responsibilities of ~~county~~ *community* mental health ~~departments~~ *services* shall be the same ~~for~~

~~placements made outside the state as they are for those made inside the state regardless of the location of the placement.~~

*The bill would also require that the Superintendent of Public Instruction and the Secretary of Health and Welfare ensure that the State Department of Education and the State Department of Mental Health, by January 1, 1998, enter into a specified interagency agreement, and would express legislative intent that the designated local agencies of these departments enter into interagency agreements.*

By imposing requirements upon ~~county~~ community mental health ~~departments~~ services, the bill would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1   ~~SECTION 1. Section 7572.56 is added to the~~  
 2   ~~Government Code, to read:~~  
 3   ~~7572.56.—~~  
 4   SECTION 1. (a) The fiscal and program  
 5   responsibilities of ~~county mental health departments~~  
 6   ~~shall be the same for placements made outside California~~  
 7   ~~under this chapter as they are for placements made inside~~  
 8   ~~California.~~ *of community mental health services shall be*  
 9   *the same regardless of the location of placement. Local*  
 10   *education agencies and community mental health*  
 11   *services shall make out-of-state placements under*  
 12   *Chapter 26.5 (commencing with Section 7570) of*

1 *Division 7 of Title 1 of the Government Code only if other*  
2 *options have been considered and are determined to be*  
3 *inappropriate. In making these placements, local*  
4 *education agencies and community mental health*  
5 *services shall comply with relevant sections of the*  
6 *Education Code, including Section 56365.*

7 (b) This section shall become operative on July 1, 1997.

8 SEC. 2. Section 7576 of the Government Code is  
9 amended to read:

10 7576. (a) The State Department of Mental Health, or  
11 any ~~county~~ community mental health ~~department~~  
12 *service, as defined in Section 5602 of the Welfare and*  
13 *Institutions Code, designated by the State Department of*  
14 *Mental Health, shall be responsible for the provision of*  
15 ~~psychotherapy or other~~ mental health services, as  
16 ~~defined by regulation in regulations~~ by the State  
17 Department of Mental Health, developed in consultation  
18 with the State Department of Education, when required  
19 in the ~~child's~~ *pupil's* individualized education program. A  
20 local education agency shall not be required to place a  
21 ~~child~~ *pupil* in a more restrictive educational environment  
22 in order for the ~~child~~ *pupil* to receive the mental health  
23 services specified in the ~~child's~~ *pupil's* individualized  
24 education ~~plan~~ *if the program if the mental health*  
25 services can be *appropriately* provided in a less restrictive  
26 setting. ~~The local education agency, the county mental~~  
27 ~~health department, and the parent shall~~ *It is the intent of*  
28 *the Legislature that the local education agency and the*  
29 *community mental health service vigorously attempt to*  
30 ~~reach~~ *develop* a mutually satisfactory placement ~~plan~~  
31 ~~that~~ *that is acceptable to the parent and* addresses the  
32 *pupil's* educational and mental health treatment needs in  
33 a manner that is cost-effective for both public agencies,  
34 subject to the *requirements of state and federal special*  
35 *education law, including the* requirement that the  
36 placement be *appropriate and* in the least restrictive  
37 environment. *For purposes of this section, "parent" is as*  
38 *defined in Section 56028 of the Education Code.*

39 (b) A local education ~~agency or~~ agency, individualized  
40 education program ~~team shall~~ *team, or parent may*

1 initiate a referral ~~of a child with a disability for assessment~~  
2 ~~of a pupil's social and emotional status, pursuant to~~  
3 ~~Section 56320 of the Education Code. Based on the results~~  
4 ~~of assessments completed pursuant to Section 56320 of the~~  
5 ~~Education Code, an individualized education program~~  
6 ~~team may refer a pupil who has been determined to be~~  
7 ~~an individual with exceptional needs as defined in Section~~  
8 ~~56026 of the Education Code and who is suspected of~~  
9 ~~needing mental health services. A referral shall be made~~  
10 ~~to a county mental health department when a child meets~~  
11 ~~the criteria in subdivision (c), upon verification that all~~  
12 ~~documentation required in subdivision (d) is provided in~~  
13 ~~a timely manner.~~

14 ~~(c) A child with a disability may be referred to a~~  
15 ~~county mental health department to determine the need~~  
16 ~~for mental health services if the child meets all of the~~  
17 ~~following criteria: health services to a community mental~~  
18 ~~health service when a pupil meets all of the criteria in~~  
19 ~~paragraphs (1) to (5), inclusive. Referral packages shall~~  
20 ~~include all documentation required in subdivision (c),~~  
21 ~~and shall be provided immediately to the community~~  
22 ~~mental health service.~~

23 (1) The ~~child~~ *pupil* has been assessed by school  
24 personnel in accordance with Article 2 (commencing  
25 with Section 56320) of Chapter 4 of Part 30 of the  
26 Education Code. Local education agencies and ~~county~~  
27 ~~mental health departments—~~ *community mental health*  
28 *services* shall work collaboratively to ensure that  
29 assessments performed prior to referral are as useful as  
30 possible to the ~~county mental health department~~  
31 *community mental health service* in determining the  
32 need for mental health services and the level of services  
33 needed.

34 (2) The local education agency has obtained written  
35 parental consent for the referral of the ~~child~~ *pupil* to the  
36 ~~county mental health department~~ *community mental*  
37 *health service*, for the release and exchange of *all relevant*  
38 information between the local education agency and the  
39 ~~county mental health department~~ *community mental*

1 *health service*, and for the observation of the ~~child~~ *pupil*  
2 by mental health professionals in an educational setting.

3 (3) The ~~child~~ *pupil* has emotional or behavioral  
4 characteristics, ~~which are that~~:

5 (A) Are observed by *qualified* educational staff in a  
6 ~~variety of~~ educational and other settings, as ~~appropriate~~,  
7 ~~that prevent the child~~ *appropriate*.

8 (B) ~~Impede the pupil from benefiting from special~~  
9 ~~education~~.

10 (4) ~~The child's emotional or behavioral characteristics~~  
11 ~~are severe, educational services~~.

12 (C) Are *significant* as indicated by their rate of  
13 ~~occurrence and intensity, have an onset from age 30~~  
14 ~~months to 21 years, and are occurrence~~.

15 (D) Are associated with a condition that cannot be  
16 ~~defined described~~ solely as a ~~behavioral disorder~~ *social*  
17 *maladjustment* or a temporary adjustment problem, and  
18 cannot be resolved with short-term counseling.

19 (4) *As determined using educational assessments, the*  
20 *pupil's functioning, including cognitive functioning, is at*  
21 *a level sufficient to enable the pupil to benefit from*  
22 *mental health services*.

23 (5) The local education agency has provided  
24 counseling, psychological, or guidance services to the  
25 ~~child~~ *pupil* pursuant to Section 56363 of the Education  
26 Code, and the individualized education program team  
27 has determined that the services do not meet the ~~child's~~  
28 *pupil's* educational needs, or, in cases where these  
29 services ~~were~~ *are* clearly inappropriate, the  
30 individualized education program team has documented  
31 which of these services were considered and why they  
32 were determined to be inappropriate.

33 (d) ~~When referring a child with a disability to a county~~  
34 ~~mental health department~~

35 (c) *When referring a pupil to a community mental*  
36 *health service* in accordance with subdivision (b), the  
37 local education agency or the individualized education  
38 program team shall provide the following  
39 documentation:

1 (1) Copies of the current individualized education  
2 ~~program—and program~~, all current assessment reports  
3 completed by school personnel in all areas of suspected  
4 disabilities pursuant to Article 2 (commencing with  
5 Section 56320) of Chapter 4 of Part 30 of the Education  
6 Code, *and other relevant information, including reports*  
7 *completed by other agencies.*

8 (2) A copy of the parent's consent obtained as  
9 provided in paragraph (2) of subdivision ~~(e)~~ (b).

10 (3) A summary of the emotional or behavioral  
11 characteristics of the ~~child~~ *pupil*, including  
12 documentation that the ~~child~~ *pupil* meets the criteria set  
13 forth in paragraphs (3) and (4) of subdivision ~~(e)~~ (b).

14 (4) A description of the counseling, ~~psychological, or~~  
15 ~~guidance services—~~ *psychological, and guidance services,*  
16 *and other interventions* that have been provided to the  
17 ~~child~~ *pupil*, including the initiation, duration, and  
18 frequency of these services, or an explanation of why a  
19 service was considered for the ~~child~~ *pupil* and  
20 determined to be inappropriate.

21 ~~(e)–~~

22 (d) *Based on preliminary results of assessments*  
23 *performed pursuant to Section 56320 of the Education*  
24 *Code, a local education agency may refer a pupil who has*  
25 *been determined to be, or is suspected of being, an*  
26 *individual with exceptional needs, and is suspected of*  
27 *needing mental health services, to a community mental*  
28 *health service when a pupil meets the criteria in*  
29 *paragraphs (1) and (2). Referral packages shall include*  
30 *all documentation required in subdivision (e) and shall*  
31 *be provided immediately to the community mental*  
32 *health service.*

33 (1) *The pupil meets the criteria in paragraphs (2) to*  
34 *(4), inclusive, of subdivision (b).*

35 (2) *Counseling, psychological, and guidance services*  
36 *are clearly inappropriate in meeting the pupil's needs.*

37 (e) *When referring a pupil to a community mental*  
38 *health service in accordance with subdivision (d), the*  
39 *local education agency shall provide the following*  
40 *documentation:*

1 (1) Results of preliminary assessments to the extent  
2 they are available and other relevant information  
3 including reports completed by other agencies.

4 (2) A copy of the parent's consent obtained as  
5 provided in paragraph (2) of subdivision (b).

6 (3) A summary of the emotional or behavioral  
7 characteristics of the pupil, including documentation that  
8 the pupil meets the criteria in paragraphs (3) and (4) of  
9 subdivision (b).

10 (4) An explanation as to why counseling,  
11 psychological, and guidance services are clearly  
12 inappropriate in meeting the pupil's needs.

13 ~~(f) The procedures set forth in this section do not~~  
14 ~~apply chapter are not designed for use in responding to~~  
15 ~~psychiatric emergencies or other situations requiring~~  
16 ~~immediate response. In these situations, a local education~~  
17 ~~agency may make referrals to other public parent may~~  
18 ~~seek services from other public programs or private~~  
19 ~~providers, as appropriate.~~

20 ~~(f) appropriate. This subdivision shall not change the~~  
21 ~~identification and referral responsibilities imposed on~~  
22 ~~local education agencies under Article 1 (commencing~~  
23 ~~with Section 56300) of Chapter 4 of Part 30 of the~~  
24 ~~Education Code.~~

25 ~~(g) Referrals shall be made to the county mental~~  
26 ~~health department in which the child lives. The county~~  
27 ~~mental health department shall accept all referrals for~~  
28 ~~mental health assessments made pursuant to subdivision~~  
29 ~~(b). If a parent resides in another county, the county~~  
30 ~~mental health department in which the child lives shall~~  
31 ~~immediately contact the county mental health~~  
32 ~~department in which the parent resides, then do either~~  
33 ~~of the following, depending upon the preference of the~~  
34 ~~county in which the parent resides:~~

35 ~~(1) Treat the referral as if the child's parent resides in~~  
36 ~~the county in which the child lives. In this case, the county~~  
37 ~~in which the parent resides shall be responsible for any~~  
38 ~~costs incurred by the county in which the child lives.~~

39 ~~(2) Forward the referral without delay to the county~~  
40 ~~mental health department in the county in which the~~

1 parent resides. The receiving county shall accept  
2 referrals made pursuant to subdivision (b) and this  
3 paragraph.

4 (g) Upon receipt of a referral pursuant to subdivision  
5 (b), the county mental health department shall obtain  
6 the parent's written consent for an assessment of the child  
7 and immediately contact the local education agency or  
8 the individualized education program team. The date of  
9 the next individualized education program team meeting  
10 shall be established jointly and occur within 50 days from  
11 the date that a county mental health department obtains  
12 the parental consent to assess the child in accordance  
13 with Section 56344 of the Education Code.

14 (h) Whenever a pupil who has been receiving mental  
15 health services pursuant to an individualized education  
16 program transfers into a school district from a school  
17 district in another county, the responsible local education  
18 administrator or individualized education program team  
19 shall refer the child to the county mental health  
20 department to determine appropriate mental health  
21 services. The county mental health department director  
22 or his or her designee shall ensure that the child is  
23 provided interim mental health services, as specified in  
24 the existing individualized education program pursuant  
25 to Section 56325 of the Education Code for a period not  
26 to exceed 30 days, unless the parent or guardian agrees  
27 otherwise. An individualized education program team,  
28 which shall include a representative of the county mental  
29 health department, shall be convened by the local  
30 education agency to review the interim services and  
31 make a determination of services within 30 days of the  
32 child's transfer.

33 *SEC. 3. community mental health service in the*  
34 *county in which the pupil lives. If the pupil has been*  
35 *placed into residential care from another county, the*  
36 *community mental health service receiving the referral*  
37 *shall forward the referral immediately to the community*  
38 *mental health service of the county of origin, which shall*  
39 *have fiscal and programmatic responsibility for providing*  
40 *or arranging for provision of necessary services. In no*



1 *event shall the procedures described in this subdivision*  
2 *delay or impede the referral and assessment process.*

3 *SEC. 3. Section 7586.6 is added to the Government*  
4 *Code, to read:*

5 *7586.6. (a) The Superintendent of Public Instruction*  
6 *and the Secretary of Health and Welfare shall ensure that*  
7 *the State Department of Education and the State*  
8 *Department of Mental Health enter into an interagency*  
9 *agreement by January 1, 1998. It is the intent of the*  
10 *Legislature that the agreement include, but not be*  
11 *limited to, procedures for ongoing joint training,*  
12 *technical assistance for state and local personnel*  
13 *responsible for implementing this chapter, protocols for*  
14 *monitoring service delivery, and a system for compiling*  
15 *data on program operations.*

16 *(b) It is the intent of the Legislature that the*  
17 *designated local agencies of the State Department of*  
18 *Education and the State Department of Mental Health*  
19 *update their interagency agreements for services*  
20 *specified in this chapter at the earliest possible time. It is*  
21 *the intent of the Legislature that the state and local*  
22 *interagency agreements be updated at least every three*  
23 *years or earlier as necessary.*

24 *SEC. 4. Notwithstanding Section 17610 of the*  
25 *Government Code, if the Commission on State Mandates*  
26 *determines that this act contains costs mandated by the*  
27 *state, reimbursement to local agencies and school*  
28 *districts for those costs shall be made pursuant to Part 7*  
29 *(commencing with Section 17500) of Division 4 of Title*  
30 *2 of the Government Code. If the statewide cost of the*  
31 *claim for reimbursement does not exceed one million*  
32 *dollars (\$1,000,000), reimbursement shall be made from*  
33 *the State Mandates Claims Fund.*

34 *Notwithstanding Section 17580 of the Government*  
35 *Code, unless otherwise specified, the provisions of this act*  
36 *shall become operative on the same date that the act*  
37 *takes effect pursuant to the California Constitution.*